

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to execute a Limited Access Agreement from the City of Lowell to Perkins Eastman relative to 75 Arcand Drive, also known as the new Lowell High School site.

The City of Lowell owns property at 75 Arcand Drive, Lowell, and

Perkins Eastman has requested access to said property for the purpose conducting certain site surveying and environmental testing; and

A Limited Access Agreement for such purpose is needed.

BE IT VOTED BY A TWO-THIRDS VOTE OF THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and he is hereby authorized to execute a Limited Access Agreement between the City of Lowell and Perkins Eastman, its employees, agents and contractor's relative to property at 75 Arcand Drive, also known as the new Lowell High School site for the purpose of conducting site surveying, planning, and environmental testing for a term not to exceed 150 days, all as more fully described in the form, or substantially the form, attached hereto.

LIMITED ACCESS AGREEMENT

This Access Agreement is entered into this the ____ day of November 2018 by and between the CITY OF LOWELL, a Massachusetts municipal corporation, owner of the property located at 75 Arcand Drive in Lowell (the "Property") and PERKINS EASTMAN ARCHITECTS, DPC, hereinafter referred as "PERKINS EASTMAN" with a local office in Massachusetts at 20 Ashburton Place, Floor 8, Boston, MA 02108 (collectively, the "Parties").

WHEREAS, PERKINS EASTMAN, has requested access to the Property for the purpose of conducting site surveying and environmental testing on behalf of the City in furtherance of the expansion, redevelopment, and construction of the new Lowell High School (the "LHS Project"), and as further outlined in the proposed scope of work attached as EXHIBIT A (the "Work"); and

WHEREAS, the CITY OF LOWELL is willing to grant limited access to the Property for the purpose of this work for the LHS Project for a term not to exceed 150 days from the date of this agreement;

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties hereby agree as follows:

1. The CITY OF LOWELL hereby grants to PERKINS EASTMAN, its employees, agents, and contractors, access onto the Property for the purpose of conducting the Work.
2. No materials may be stored on the Property by PERKINS EASTMAN unless approved in writing by the CITY OF LOWELL and are, at a minimum, determined to be non-hazardous materials.
3. To the extent that they are required, PERKINS EASTMAN shall be responsible for obtaining all permits required from the CITY OF LOWELL for the Work. PERKINS EASTMAN shall be solely responsible for any costs incurred for the procurement of these permits.
4. PERKINS EASTMAN shall provide to the CITY OF LOWELL copies of all reports, tests, surveys and/or other findings on site conditions generated as a result of the Work.
5. PERKINS EASTMAN shall not access the interior of the structure on the Property to perform the work until the CITY OF LOWELL establishes a schedule of access with all tenants in the Property. PERKINS EASTMAN shall abide by all access schedules set forth by the CITY OF LOWELL.
6. PERKINS EASTMAN agrees that neither it nor its employees, contractors, or agents shall, in the course of the Work permitted under this Agreement, unnecessarily obstruct, interfere with, or impede the ingress and egress of persons or vehicles to and from 75 Arcand Drive, vehicular traffic on or around Arcand Drive, pedestrian travel on or about Arcand Drive, or otherwise unnecessarily interfere with any existing use of 75 Arcand Drive. PERKINS EASTMAN shall use all diligent efforts to minimize any such obstruction or inference, and to coordinate its activities with the CITY OF LOWELL to minimize any inconvenience to or interruption with business operations at 75 Arcand Drive.
7. PERKINS EASTMAN shall require its contractors, while performing the work at 75 Arcand Drive, to maintain at least the following insurance, with limits of liability no less than those stated below:

1. Comprehensive General Liability: Combined single limit for bodily injury and property damage of not less than \$1,000,000.00 each occurrence and \$2,000,000.00 annual aggregate.
 2. Worker's Compensation Insurance and Employer's Liability Insurance: With limits of liability of not less than those required by law.
 3. Employer's Liability Insurance with limits of not less than \$1,000,000.00.
 4. Automobile Insurance (comprehensive form) covering all vehicles with limits of liability of not less than \$1,000,000.00 combined single limit for bodily injury and property damage.
8. No work shall be performed between 7:00PM and 7:00AM, except if a bona fide emergency exists and the City of Lowell is given adequate notice where practicable prior to the emergency work.
 9. Heavy equipment, to the extent it is required, must be fenced off, stored, or otherwise secured at the end of each work day.
 10. Upon completion of the use of the site, PERKINS EASTMAN shall return the site to the City of Lowell in its original condition.
 11. The City of Lowell reserves the right to revoke consent for this Agreement either for cause or without cause.
 12. PERKINS EASTMAN and the CITY OF LOWELL acknowledge that the CITY OF LOWELL makes no representations or warranties regarding the condition or safety of its property and that entry upon the property is at the risk of PERKINS EASTMAN, and its employees, agents, and contractors. The CITY OF LOWELL shall not be responsible for any personal injury or property damage suffered by any party or person that arises in any way out of the activities contemplated in this Agreement, except to the extent that such injury or damage is a direct result of negligence of the CITY OF LOWELL, and subject to the limits set forth in M.G.L. c. 258.
 13. PERKINS EASTMAN agrees to defend, indemnify and hold the CITY OF LOWELL, its officers, officials, agents and employees harmless from and against any suits, claims, actions, costs, expenses, fees, liability, losses and damages that may be asserted against, imposed upon, or incurred by the CITY OF LOWELL, its officers, officials, employees and agents, as a result of, relating to, or arising from any act or omission of PERKINS EASTMAN, or its employees, agents, and contractors that is directly associated or in connection with the grant of access as set forth herein. PERKINS EASTMAN indemnification under this Paragraph shall survive the expiration or early termination of this Agreement.
 14. Each of the undersigned hereby represents and warrants that it is authorized to execute this Agreement on behalf of the respective Party to the Agreement and that this Agreement, when executed by those Parties, shall become a valid and binding obligation, enforceable in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this Agreement as a contract under seal this the _____ day of November 2018.

CITY OF LOWELL, MA

PERKINS EASTMAN ARCHITECTS, D.P.C.

By: _____
Eileen M. Donoghue, City Manager

By: _____
John D. Hoglund, President, COO

Approved as to form:

Christine O'Connor
City Solicitor

EXHIBIT A
75 Arcand Drive
Work week of 11/19-11/20

Geotechnical Engineer
Geotechnical Partnership, Inc.
45 New Ocean Street – Suit A
Swampscott, MA 01907
781-646-6982
Lisa R. Casselli, PE

The geotechnical engineer will be conducting 8 borings around the site. They are identified on the attached **Site Diagram #1**. This work involves the use of a large truck mounted boring rig to bore holes approximately 3 inches in diameter in the ground. Typically holes created by the boring rig are filled with leftover soil material displaced from the boring activity, but asphalt patching will not take place.

Civil Engineer
Nitsch Engineering
2 Center Plaza – Suite 430
Boston, MA 02108-1928
617-338-0063
William Maher, PE, LSIT
857-206-8707
Denis Sequim, PLS
857-206-8723

The Civil Engineer will be conducting 6 Test Pit excavations around the site. They are identified on the attached **Site Diagram #2**. This work involves the use of a tractor equipped with a backhoe to dig the test pits. Typically the test pit holes are backfilled with the excavated material to match the existing adjacent grades but asphalt patching will not take place.

Geo-environmental Engineer
Nobis
585 Middlesex Street
Lowell, MA 01851
978-703-6016
Denis McGrath, C.H.M.M.
Jeffrey Brunelle, Project Manager
978-703-6038

The geo-environmental engineer will be conducting 4 borings around the site. They are identified on the attached **Site Diagram #3**. This work involves the use of a large truck mounted boring rig to bore holes approximately 3 inches in diameter in the ground. Typically holes created by the

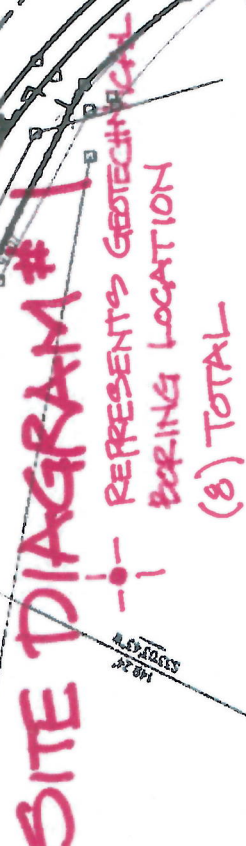
boring rig are filled with leftover soil material displaced from the boring activity, but asphalt patching will not take place.

Hazardous Materials Consultant
Universal Environmental Consultants
12 Brewster Road
Framingham, MA 01702
Ammar Dieb
508-628-5486
Jason Becotte, Inspector

The Hazardous Materials Consultant will be conducting materials sampling within the office building at 75 Arcand Drive. This work is planned for afterhours so as to limit disruption to the occupants. Currently the Hazardous Materials Consultant is planning to arrive on site Monday November 19th at 5:30 PM. They will need someone to provide access to the building.

B201-B207: New borings
B205A - Alternate to B205
Other borings: previous

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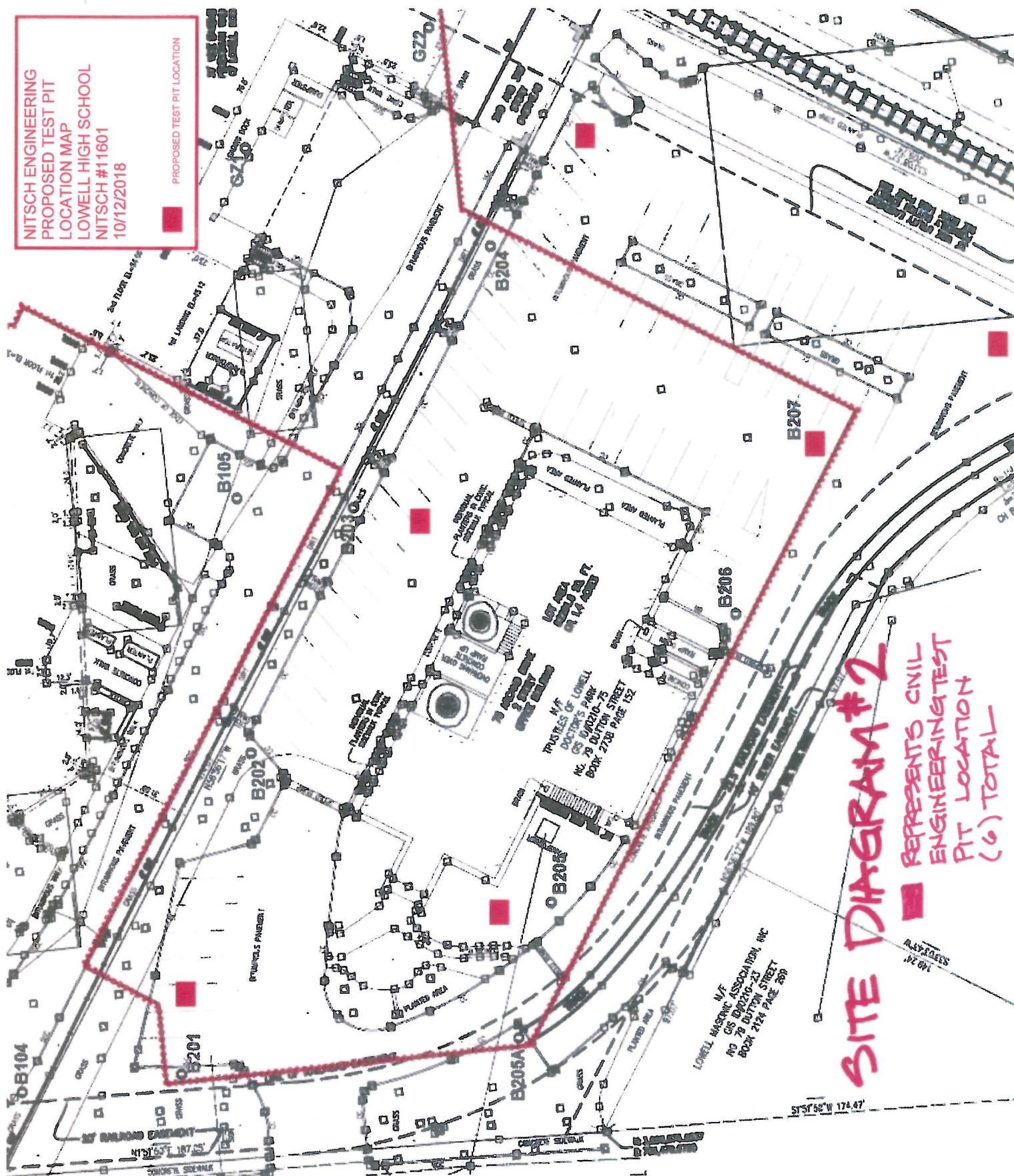
LOWELL MASTING ASSOCIATION, INC
N/E
CIS 000210-23
78 DUTTON STREET
BOX 2124 PAGE 269

PROPOSED TEST PIT LOCATION

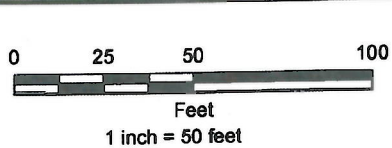
SITE DIAGRAM #2

■ REPRESENTS CIVIL
ENGINEERING TEST
PIT LOCATION
(6) TOTAL

ALSO SEE
PAGE 001



M:\Opportunities\RFPS\09063 Lowell High School 75 Arcand Drive\Figure 1_Locations_Plan.mxd 10/19/2018 08:52



Nobis Group® - 18 Chenell Drive
Concord, NH 03301 - (603) 224-4182
www.nobis-group.com

FIGURE 1

PROPOSED SAMPLE LOCATIONS
75 ARCAND DRIVE
LOWELL HIGH SCHOOL
LOWELL, MASSACHUSETTS

PREPARED BY: DFM

PROJECT NO. 09063

DATE: OCT. 2018

SITE DIAGRAM #3

REPRESENTS GEO-ENVIRONMENTAL
BORING LOCATION
(4) TOTAL



City of Lowell - Law Department

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Tel: 978.674.4050 • Fax: 978.453.1510 • www.lowellma.gov

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City Solicitor

Rachel M. Brown
1st Assistant City Solicitor

Gary D. Gordon
John Richard Hucksam, Jr.
Adam LaGrassa
Hannah Pappenheim
Elliott J. Veloso
Assistant City Solicitors

November 16, 2018

City Manager Eileen M. Donoghue
Mayor William Samaras
Members of the City Council

Re: Limited Access Agreement for Access to 75 Arcand Drive

Dear City Manager Donoghue, Mayor Samaras, and Members of the City Council:

In furtherance of the City's expansion and redevelopment of the Lowell High School, Perkins Eastman, Skanska, and their respective contractors require access to the property at 75 Arcand Drive to perform certain surveying and environmental assessment activities. These activities will include the conducting of environmental borings and test pits, and materials sampling. The attached limited access agreement would permit Perkins Eastman, Skanska, and their contractors to enter the property for the purpose of performing this work.

Very truly yours,

Christine P. O'Connor
City Solicitor

Encs.